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offense against the law none is confessed. Fatal defects in indictments may be raised for the first time on appeal. *Pattee v. State*, 109 Ind. 545; *Cannerni v. People*, 18 N. Y. 128. But where the defect is merely formal and curable by amendment it cannot be raised for the first time on appeal. *People v. Kelly*, 99 Mich. 82. So an objection that an indictment charging two persons with a misdemeanor in running a horse race in the street of a town is insufficient, because it does not allege that defendants ran together, is too late, if taken for the first time on appeal. *King v. State*, 3 Tex. App. 7. But failure to demur to an indictment for burglary which charges that the defendants entered, etc., with intent to commit a felony, without stating what particular felony, does not waive the objection. *People v. Nelson*, 58 Cal. 104. And (as in case at hand) where defendant pleaded guilty and was convicted without moving to quash, or in arrest, or reserving any exception, it was held in *Henderson v. State*, 60 Ind. 296, that the indictment might be questioned in the first instance in the Appellate Court on assignment of error, and several courts hold that the sufficiency of an indictment may be questioned for the first time in the Supreme Court on appeal. *O'Brien v. State*, 63 Ind. 242; *Hays v. State*, 77 Ind. 450; *State v. Caldwell*, 112 N. C. 854.

CRIMINAL LAW—RIGHT OF ACCUSED TO CONFRONT WITNESSES—CONSTITUTIONAL PROVISION.—*CREMEANS v. COMMONWEALTH*, 52 S. E. 362 (VA.).—*Held*, that it is not error to force the accused into trial in the absence of his witnesses, when it appears to the court that the motive is a mere pretext for delay. *Caldwell, J., dissenting.*

The tendency has been to support this proposition. *Hooker v. Rogers*, 6 Cowen 577; *King v. Pearce*, 40 Mo. 223; *The King v. D'Eon*, 1 Bl. Rep. 510. The rule is the same in criminal cases as in civil cases. *People v. Vermilyea*, 7 Cowen 383; *The King v. D'Eon, supra*. The motion must show due diligence to procure the testimony, and that there is a reasonable probability that it can be obtained; *Robinson v. Glass*, 94 Ind. 211; and that it can be procured in a reasonable time. *Brown v. Moran*, 65 How. Pr. 349. The applicant must know the witnesses' whereabouts, *Carberry and Case v. Warrell*, 68 Miss. 573. The Massachusetts' courts seem to hold that the witness must be within the jurisdiction of the court. *Com. v. Millard*, 1 Mass. T. R. 6.

DEAD BODIES—MUTILATION—ACTION BY SURVIVING HUSBAND.—*JACKSON v. SAVAGE ET AL.*, 96 N. Y. SUPP. 366.—*Held*, that a husband has a right of action for the dissection of the body of his deceased wife without his permission or without the permission of his wife given during her lifetime.

The question as to whether a husband or wife has a right of action for the mutilation of the remains of the deceased has been much discussed. It resolves itself into a question of property in a dead body. There was at common law no such right of property. Lord Coke is reported as saying: "*Cadaver nullius in bonis.*" Blackstone says: "Though the heir has a property in the monument and escutcheons of his ancestor, he has none in his dead body or ashes." 2 Bl. Com. 249. Wharton says: "*Corpus humanum non recipit estimationem.*" In support of this view, *Griffith v. Chorlotte C. & A. R. Co.*, 23 S. C. 25, held that an administrator of a deceased person had no right of action for the mutilation of the body of his intestate. However, to-day the great weight of authority is to the effect that there is such property, *quasi*-property, or interest in the dead body of a human being as to sustain a civil action for its wilful mutilation. *Larson v. Chase*, 47 Minn. 307, held that a widow has a right of action for the unlawful mutilation of the remains